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*Congress of the United States  
House of Representatives  
Washington, D.C. 20515*

*Anna G. Eshoo  
Eighteenth District  
California*

January 30, 2018

The Honorable Ajit Pai, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

Dear Chairman Pai,

This is my fifth letter to you regarding the transmission of RT (Russia Today) by American broadcasters. I have not received responses to my last two letters, and I'm concerned that your responses to my previous letters have not been helpful. I continue to believe there is still an opportunity to take proactive steps at the FCC to safeguard our democratic systems from subversion by hostile foreign entities, and I urge you to do so.

The FCC requires all broadcaster licensees and cable operators to make their station public inspection file available to the public. It also requires television stations to place most of the content of their public files online, including political filing requirements containing the time, date, and price paid for political campaign advertisements. This is a critical component of ensuring transparency for consumers of broadcast media, and I commend the Commission for its recent vote to modernize this system for the 21<sup>st</sup> century. It is important that we keep our systems up-to-date, such as eliminating paper contract filings. Just as important as digitizing is ensuring the FCC meets *all* modern needs for media monitoring.

As you are aware, Russian efforts to utilize U.S. media outlets, including broadcast airwaves, to undermine American society and our democratic functions has been widely acknowledged by U.S. authorities, including the U.S. Intelligence Community, which has called RT, the Russian state news agency, "the Kremlin's principal international propaganda outlet"; the Department of Justice, which required RT to register as a foreign agent under the Foreign Agents Registration Act (FARA); and the Congressional Radio & Television Correspondents' Galleries, which revoked RT's news credentials in Congress on November 29, 2017. The transmission of Russian government content over our airwaves is part of a clear and concerted effort to manipulate the American people and I believe this deserves an American response.

I've given a great deal of thought to this situation and I propose the following: the FCC should require any foreign agents registered under FARA who seek time on American airwaves – radio, broadcast, and cable – to file publicly with the FCC under the same requirements used for political files by candidates and issue advertisers, and concurrently send a notice to the Department of


Justice and the State Department. The filings should include: a description of when advertising actually aired, advertising preempted, and the timing of any make-goods of preempted time, as well as credits or rebates provided the advertiser. It is a commonsense solution that makes use of systems already in place and is narrowly tailored to the specific threats posed by foreign agents without unduly burdening broadcasters or cable providers.

We are once again in a critical election year and I remain deeply troubled that we have yet to address widely acknowledged efforts to manipulate the last election or take steps to ensure our next elections are protected. Our society is more fractured than it has been in decades, and the U.S. Intelligence Community has confirmed that the content we've seen from RT is designed to exacerbate those divisions. Just this week, CIA Director Mike Pompeo said that he has "every expectation" that Russia will try to interfere in the 2018 midterm elections<sup>1</sup>.

The American people and our oversight institutions need to know where the content of what they see and hear is coming from, enabling our citizenry to be empowered to think critically and prevent any further damage to the fabric of our democracy. I'm committed to finding solutions to what I believe is a serious issue as soon as possible and I hope you and your agency will work with me in this worthy cause to protect the integrity of our public airwaves. Our democracy deserves no less.

I look forward to your timely response.

Sincerely,



Anna G. Eshoo  
Member of Congress

CC:

Commissioner Mignon Clyburn  
Commissioner Michael O'Rielly  
Commissioner Brendan Carr  
Commissioner Jessica Rosenworcel

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<sup>1</sup> Cristiano Lima, "Pompeo: 'I have every expectation' Russia will meddle in 2018 midterms," Politico, Jan. 30, 2018.





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

April 20, 2018

The Honorable Anna Eshoo  
U.S. House of Representatives  
241 Cannon House Office Building  
Washington, D.C. 20515

Dear Congresswoman Eshoo:

Thank you for your letters concerning Federal Communications Commission (FCC) disclosure requirements for broadcast programming. I understand the importance of ensuring that consumers are aware of the sponsor of paid programming, and I am happy to address below the issues you have raised.

You ask that the Commission investigate FCC licensees to determine whether any may have aired broadcast programming by foreign agents—specifically, programming from RT and Sputnik—without proper sponsorship identification disclosure. You are correct that under our rules, broadcast stations must comply with the Commission's sponsorship identification rules. These rules generally require that when money or other consideration for the airing of program material has been received by or promised to a station, its employees, or others, the station must broadcast full disclosure of that fact at the time of the airing of the material, and identify who provided or promised to provide the consideration.

The Commission has not received any evidence that the stations that carry RT or Sputnik programming are in violation of those rules, beyond the references provided in your letters. (To be sure, the Commission has received a small number of complaints from listeners or viewers objecting to the broadcast of RT and Sputnik programming aired on FCC-licensed stations, but as you know, the First Amendment and the Communications Act generally bar the Commission from interfering with a broadcast licensee's choice of programming.)

Based on the information provided in your letters, I have instructed the Enforcement Bureau staff to contact the broadcast licensees that air RT and/or Sputnik programming to obtain additional information regarding any issue that may be within the FCC's jurisdiction. The Bureau will take the appropriate action depending on the facts that emerge during that inquiry. I would note that, without prejudging anything in the instant situation, violations of the sponsorship identification rules typically result in a forfeiture or fine for the licensee, as opposed to license revocation. Also, I should point out that the provisions of the Communications Act and the Commission's rules pertaining to sponsorship identification apply to broadcast station licensees and cable systems, but not to third-party programming providers.

I understand your request that the Commission take steps to monitor the airwaves for compliance with sponsorship identification rules, but I am unable to commit to doing so due to

resource constraints. Given its limited resources, the FCC historically has relied on a complaint-based system, rather than first-party monitoring, to help us detect potential violations. Dedicating a significant portion of enforcement resources solely to this issue would jeopardize our efforts to enforce our rules in several other areas. I can commit to you that we will review, and investigate as necessary, any complaints that are received on this issue.

Further, strong and recent agency action serves to put the entire broadcast industry on notice with respect to our sponsorship identification rules and our determination to enforce them. As you may be aware, we recently proposed a record fine for significant violations of our rules when paid programming lacked the required on-air disclosures. That decision incentivizes broadcast stations to ensure that all paid programming contains the disclosures required under Commission rules.

Incidentally, these same sponsorship identification rules apply to all broadcast licensees regardless of where the station gets its programming and whether or not the entity providing the content is a foreign agent under the Foreign Agents Registration Act (FARA). This sponsorship identification disclosure requirement applies to broadcast licensees and cable systems, and is distinct from FARA, which requires that registered foreign agents provide specific labels on any informational materials distributed by the foreign agent. The U.S. Department of Justice would be better suited to address how, and if, FARA's labeling requirements currently apply to the broadcast programming distributed by RT and Sputnik, as the FCC does not have separate enforcement authority over FARA requirements.

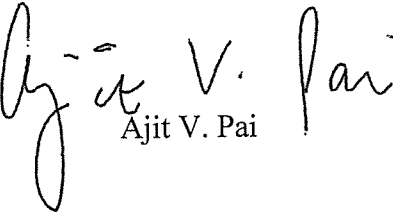
Your letters also raise the issue of whether the Commission's foreign ownership rules need review. Those rules have in fact been reviewed relatively recently; in September 2016, the previous Commission unanimously updated them. Additionally, these rules apply to the ownership and control of broadcast stations, not to the source of programming broadcast by such stations. Thus, it is unclear how such rules would be implicated based on the information currently available.

While the Commission's "secondary market" rules allow certain non-broadcast licensees to lease spectrum to third parties, these rules do not permit broadcast licensees to lease spectrum. In addition, Section 310(d) prohibits the de facto or de jure transfer of control of a broadcast licensee without the Commission's approval. This requires each licensee to retain control over essential station matters, such as personnel, programming, and finances. Although the Commission has authority to forbear from enforcing certain provisions of the Communications Act, this forbearance authority does not extend to broadcast licensees.

Finally, your January 30 letter proposes that the Commission require any foreign agents registered under FARA who seek time on broadcast and cable entities to file publicly with the FCC the same political file information currently required of broadcast and cable entities. However, as with sponsorship identification, the provisions of the Communications Act and the Commission's rules pertaining to political file information apply to broadcast station licensees and cable systems, but not to third-party programming providers.

I hope this has been helpful. Please let me know if I can be of further assistance.

Sincerely,

  
Ajit V. Pai